IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.766 of 2006

Madhan ... Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-8.

2.The Secretary to Government,
Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-9. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the first respondent dated 10.02.2006 in proceedings No.BDFGISV No.49/2006, set aside the same and produce the detenu viz., Madhan now confined at Central Prison, Chennai before this Court and set him at liberty.

For Petitioner : Mrs.A.Veeramarthini
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Madhan, who is detained as a ''Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 10.02.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner, by drawing our attention to the grounds of detention, observation mahazar and copy of the Accident Register, has contended that in view of the fact that there is no consistency in describing the place of occurrence, the detention order passed by the detaining authority is liable to be interfered with. In view of the above contention, we have verified all the above documents including the First Information Report. We are satisfied that though the name of the one tiffin centre differs in those documents, the materials placed and the statements of various persons show that the ground case has taken place near the tiffin centre. In such circumstances, we are of the view that the discrepancy or error pointed out by the learned counsel for the petitioner is only a trivial in nature and it would not affect the detention order passed by the detaining authority. Accordingly, we reject the said contention.

4. By drawing our attention to para 4 of the grounds of detention, the learned counsel for the petitioner has submitted that when the detaining authority was very well aware of the fact that the detenu has not moved any bail application, there is no imminent possibility of the detenu being coming out on bail and this relevant aspect has not been considered by the detaining authority. According to the learned counsel for the petitioner, in the absence of any bail application by the accused/detenu, the detention order is not warranted. We are unable to accept the said contention.

5. A perusal of paragraph 4 of the grounds of detention makes it clear that the detaining authority was very well aware that Madhan is in remand in K2 Ayanavaram Police Station Crime No.1874/2005 and he also noted that he has not moved any bail application till the date of passing of the detention order. However, the detaining authority, after noting that by filing bail application, either before the Sessions Court or High Court, there is real possibility of the detenu being coming out on bail on the orders of the said Court and if he comes out on bail, he will indulge in further activities, which will be prejudicial to the maintenance of public order, satisfied with the particulars in view of the various adverse cases viz., numbering six, and has passed the detention order. The satisfaction arrived at by the detaining authority cannot be doubted. Accordingly, we reject the said contention also.

6. Finally, the learned counsel for the petitioner, by taking us through Form-95, which is available at page 62 of the paper book supplied to the detenu, has submitted that in view of the discrepancy in describing the length of the patta knife, the

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detention order is to be interfered with on the ground of non application of mind. We have perused the contents of Form-95. Even if we accept the statement of the learned counsel for the petitioner, we are of the view that the same would not affect the detention order passed by the detaining authority, which is based on several other relevant factors. Accordingly we reject the said contention also.

7. In the light of what is stated above, we do not find any valid ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector, Kancheepuram District.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.A. Veeramarthini, Advocate, Sr. 45488

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